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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,751	02/07/2002	Shirley Wu Hunter	2618-17-C4-PUS-2	2578

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EXAMINER

STEADMAN, DAVID J

ART UNIT	PAPER NUMBER
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1656

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/071,751

Applicant(s)

HUNTER ET AL.

Examiner

David J. Steadman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 69-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 69-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

- [1]** Claims 69-75 are pending in the application.
- [2]** Applicant's amendment to the claims, filed on 3/29/2006, is acknowledged. This listing of the claims replaces all prior versions and listings of the claims.
- [3]** Applicant's arguments filed on 3/29/2006 in response to the Office action mailed on 12/30/2005 have been fully considered and are deemed to be persuasive to overcome some of the rejections and/or objections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.
- [4]** The text of those sections of Title 35 U.S. Code not included in the instant action can be found in a prior Office action.
- [5]** The indicated allowability of claims 69-71 is withdrawn in view of the new rejections set forth below.

Specification/Informalities

- [6]** It is noted that applicant submitted a substitute sequence listing on 10/12/2005, replacing SEQ ID NO:61 and 62 such that they are identical to SEQ ID NO:61 and 62, respectively, of PCT/US97/05959 (*i.e.*, replacing A with T at nucleotide 329 of SEQ ID NO:61 and replace Ile with Asn at position 110 of SEQ ID NO:62). It is noted that the specification states, "[t]he complement of SEQ ID NO:61 is represented herein by SEQ ID NO:63" (p. 94, lines 20-22). A review of the sequence listing filed on 10/12/2005 indicates that applicant has failed to change the nucleotide sequence of SEQ ID NO:63

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to correspond to the sequence of SEQ ID NO:61 as presented in the sequence listing filed on 10/12/2005. The specification is objected to as the sequence of SEQ ID NO:63 is not the complement of SEQ ID NO:61. Appropriate correction is required. If applicant changes the nucleotide sequence of SEQ ID NO:63 so that it is the complement of SEQ ID NO:61, applicant is requested to show support for this updated sequence in the parent application(s).

Claim Rejections - 35 USC § 112, Second Paragraph

[7] Claims 69-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no indication in the claims that “the nucleotide sequence complementary to SEQ ID NO:63” is meant to be the complement of the *full-length* of SEQ ID NO:63. Thus, many sequences are potentially encompassed by “the nucleotide sequence complementary to SEQ ID NO:63,” including a complement of the full-length of SEQ ID NO:63 and any fragment of a complement of the full-length of SEQ ID NO:63. Claims 69 (claim(s) 70 dependent therefrom) and 71 (claims 72-75 dependent therefrom) are indefinite in the recitation of “the nucleotide sequence complementary to SEQ ID NO:63” as it is unclear as to *the* nucleotide sequence that is intended as being referenced by the claims. It is suggested that applicant clarify *the* nucleic acid that is intended as being “the nucleotide sequence complementary to SEQ ID NO:63.”

Claim Rejections - 35 USC § 102

[8] Claim 71 is rejected under 35 U.S.C. 102(b) as being anticipated by Sigma Chemical 1993 Catalog. Claim 71 is drawn to an isolated polypeptide consisting of the amino acid sequence encoded by the nucleotide sequence complementary to SEQ ID NO:63. The specification discloses that SEQ ID NO:63 is the complement of SEQ ID NO:61, which is disclosed as encoding SEQ ID NO:62 (p. 94). Nucleotides 73-78 of SEQ ID NO:61 is a sequence that is complementary to nucleotides 930-935 of SEQ ID NO:63 and encode a Gly-Gln peptide. Thus, a Gly-Gln peptide has been interpreted in accordance with MPEP 2111.01 as being a peptide consisting of the amino acid sequence encoded by the nucleotide sequence complementary to SEQ ID NO:63.

Sigma Chemical 1993 Catalog teaches a Gly-Gln peptide (p. 1089, G5149). This anticipates claim 71 as written.

Conclusion

[9] Status of the claims:

Claims 69-75 are pending.

Claims 69-75 are rejected.

No claim is in condition for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Steadman whose telephone number is 571-272-0942. The examiner can normally be reached on Mon to Fri, 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Steadman, Ph.D.
Primary Examiner
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